

Remarks

Claims 81-130, 141-203 and 229-263 have been newly canceled without abandonment or prejudice to Applicants' rights to pursue any canceled subject matter in one or more continuing applications. Claims 131, 132 and 210 have been newly amended. New claims 264-298 have been newly added. As a result of this Amendment, claims 131-140, 204-228 and 264-298 are currently pending.

The amendments to claims 131,132 and 210 were simply made so as to more clearly claim the invention. Support for the amendment to claim 132 can be found at least at page 17, last paragraph. The amendment to claim 210 and the addition of new claim 264 clarify the relationship between polyhydric alcohols as a class of alcohols and trehalose, mannitol and glycerol as members of that class. New independent method claims 265 and 266 simply mirror the allowed composition claims 131 and 132 and thus should also be allowable. Because the remaining new claims 267-298 depend from these independent method claims and also mirror the allowed dependent claims 133-140 and 204-228, they too should be allowable.

No new matter has been introduced by any of the claim amendments or by the addition of any of the new claims.

1. Allowable Claims

Claims 129 and 130 are allowable by the Examiner if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 131-148 and 204-228 are allowed by the Examiner.

2. Rejection under 35 U.S.C. § 102(b)

Claims 85-87 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,727,027 to Wiesehahn *et al.* ("Wiesehahn").

Applicants do not agree with the Examiner's rejection of claims 85-87 in view of Wiesehahn. Nevertheless, in an effort to expedite prosecution of the subject application, Applicants have canceled claims 85-87 without prejudice or abandonment, thereby mooted this ground for rejection.

3. Rejection under 35 U.S.C. § 103(a)

A. Horowitz in view of Salim-Hanna or Gottlieb

Claims 81-83 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,712,086 to Horowitz *et al.* ("Horowitz") in view of either the "Free radical scavenging activity of carnosine" abstract by Salim-Hanna *et al.* ("Salim-Hanna") or U.S. Patent No. 5,912,241 to Gottlieb *et al.* ("Gottlieb").

Applicants do not agree with the Examiner's rejection of claims 81-83 over Horowitz in view of Salim-Hanna or Gottlieb. Nevertheless, in an effort to expedite prosecution of the subject application, Applicants have canceled claims 81-83 without prejudice or abandonment, thereby mooted this ground for rejection.

B. Horowitz in view of Salim-Hanna or Gottlieb and further in view of Peterson

Claim 84 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Horowitz in view of either Salim-Hanna or Gottlieb and further in view of U.S. Patent No. 5,730,933 to Peterson ("Peterson").

Applicants do not agree with the Examiner's rejection of claim 84 over Horowitz in view of Salim-Hanna or Gottlieb and further in view of Peterson. Nevertheless, in an effort to expedite prosecution of the subject application, Applicants have canceled claim 84 without prejudice or abandonment, thereby mooted this ground for rejection.

C. Peterson in view of Horowitz and Wiesehahn

Claims 85-90, 100-116, 125-127, 229-233, 241, 242, 246, 248 and 254 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Peterson in view of Horowitz and U.S. Patent No. 4,727,027 to Wiesehahn *et al.* ("Wiesehahn").

Applicants do not agree with the Examiner's rejection of claims 85-90, 100-116, 125-127, 229-233, 241, 242, 246, 248 and 254 over Peterson in view of Horowitz and Wiesehahn. Nevertheless, in an effort to expedite prosecution of the subject application, Applicants have canceled claims 85-90, 100-116, 125-127, 229-233, 241, 242, 246, 248 and 254 without prejudice or abandonment, thereby mooted this ground for rejection.

D. Peterson in view of Horowitz and Wiesehahn and further in view of Kent

Claims 91-94, 260 and 261 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Peterson in view of Horowitz and Wiesehahn and further in view of U.S. Patent No. 6,171,549 to Kent ("Kent").

Applicants do not agree with the Examiner's rejection of claims 91-94, 260 and 261 over Peterson in view of Horowitz and Wiesehahn and further in view of Kent. Nevertheless, in an effort to expedite prosecution of the subject application, Applicants have canceled claims 91-94, 260 and 261 without prejudice or abandonment, thereby mooted this ground for rejection.

E. Odland in view of Wiesehahn

Claims 85, 86, 95-99, 112, 114, 117, 124, 128, 229, 231, 234, 241-245, 249-251 and 254 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,989,498 to Odland ("Odland") in view of Wiesehahn.

Applicants do not agree with the Examiner's rejection of claims 85, 86, 95-99, 112, 114, 117, 124, 128, 229, 231, 234, 241-245, 249-251 and 254 over Odland in view of Wiesehahn. Nevertheless, in an effort to expedite prosecution of the subject application, Applicants have canceled claims 85, 86, 95-99, 112, 114, 117, 124, 128, 229, 231, 234, 241-245, 249-251 and 254 without prejudice or abandonment, thereby mooted this ground for rejection.

F. Horowitz in view of Wiesehahn

Claims 85, 86, 89, 90, 112-116, 118-123, 125, 229-231, 241, 242, 247 and 254 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Horowitz in view of Wiesehahn.

Applicants do not agree with the Examiner's rejection of claims 85, 86, 89, 90, 112-116, 118-123, 125, 229-231, 241, 242, 247 and 254 over Horowitz in view of Wiesehahn. Nevertheless, in an effort to expedite prosecution of the subject application, Applicants have canceled claims 85, 86, 89, 90, 112-116, 118-123, 125, 229-231, 241, 242, 247 and 254 without prejudice or abandonment, thereby mooted this ground for rejection.

4. Rejection under 35 U.S.C. § 112, first paragraph

Claims 149-203, 235-240, 252, 253, 255-259, 262 and 263 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

Applicants do not agree with the Examiner's rejection of claims 149-203, 235-240, 252, 253, 255-259, 262 and 263 as failing to comply with the written description requirement. Nevertheless, in an effort to expedite prosecution of the subject application, Applicants have canceled claims 149-203, 235-240, 252, 253, 255-259, 262 and 263 without prejudice or abandonment, thereby mooted this ground for rejection.

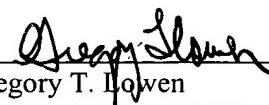
5. Conclusion

The foregoing amendments and remarks are being made to place the application in a condition for allowance. Applicants respectfully request reconsideration and the timely allowance of the pending claims. The Examiner is invited to contact the undersigned with any questions or concerns that may prevent this requested allowance.

Except for issue fees payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application, including fees due under 37 C.F.R. 1.16 and 1.17 which may be required, including any required extension of time fees, or to credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **constructive petition for extension of time** in accordance with 37 C.F.R. 1.136(a)(3).

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